

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ZHEJIANG HAILIANG CO. LTD,)
)
Plaintiff/Counterclaim Defendant,)
)
v.) 1:23-cv-1606 (LMB/LRV)
)
KME GERMANY GMBH,)
)
Defendant/Counterclaim Plaintiff.)

ORDER

Before the Court are the parties' cross-motions for summary judgment in this trademark litigation. Count IV of the Second Amended Complaint seeks cancellation of KME Germany GmbH's ("defendant") '599 registration for abandonment. In its opposition to Zhejiang Hailiang Co. Ltd.'s ("plaintiff") motion, defendant advised that it has surrendered its '599 registration and attached proof of the same. [Dkt. No. 242] at 36; [Dkt. No. 245-11]. Plaintiff does not contest this assertion. Accordingly, Count IV of the Second Amended Complaint is moot.

In its motion, defendant argues that Count VI of the Second Amended Complaint, which alleges that defendant abandoned its '711 registration, fails as a matter of law because the three-year period of non-use to establish prima facie evidence of abandonment under 15 U.S.C. § 1127 will not lapse until December 20, 2025. Plaintiff does not dispute defendant's argument and concedes that the "issue is not ripe." [Dkt. No. 244] at 33. Because it was brought prematurely, Count VI is not ripe for decision. For these reasons, it is hereby

ORDERED that Count IV of the Second Amended Complaint be and is DISMISSED;
and it is further

ORDERED that Count VI of the Second Amended Complaint be and is DISMISSED WITHOUT PREJUDICE.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 8th day of January, 2025.

Alexandria, Virginia

/s/ 
Leonie M. Brinkema
United States District Judge